

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

113

FAO-7387-2018 (O&M)
Date of Decision : 7.12.2018

Union of India through Secretary and another**....Appellants**

vs.

Subhash Bindlish and others**....Respondents****CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

Present: Mr.D.K.Singal, Advocate
for the appellants.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the dismissal of the application under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') challenging the Award which was filed by the Union of India on the ground that it was filed beyond the period of 120 days under Section 34 (3) of the Act.

The admitted facts are that the Award was received by the appellants on 16.8.2017 and the application under Section 34 of the Act was filed on 20.12.2017 which was barred by 34 days. Under the Act, after a period of 90 days is over, a further period of 30 days can be condoned but beyond that no power of condonation has been given. Learned counsel has vehemently argued that even though the Act provides for condonation of delay of 30 days yet in the peculiar circumstances of the present case where the Award is completely non-speaking the Court should exercise its discretion and extend the time. The Trial Court has relied upon the judgment

“Haryana State Cooperative Labour & Construction Federation Limited

Versus Unique Cooperatvie Labour &Construction Cooperative Society Limited and another” reported as **2017 (3) RCR (Civil) 294** where the Supreme Court held as follows :-

“A perusal of Section 34 (3) leaves no room for any doubt, that an arbitral award has to be assailed within a period of 3 months, where after, condonation of delay is permissibly only for a further period of 30 days. Delay beyond 3 months and 30 days is not condoned. This petition has repeatedly been reiterated by this Court, and was dealt with in extensive detail, by the Additional District Judge, Panchkula, in the order dated 17.5.2014, by which the objections filed by the appellant were dismissed by concluding, that “...on the basis of the well settled propositions of law, which have been discussed and laid down as referred above, this Court has arrived at a definite conclusion that the application in question is not maintainable and delay cannot be condoned for filing the objections under Section 34...”

The Trial Court has also relied upon the judgment of the Supreme Court in **“Union of India vs. M/s Popular Construction Company, 2002 (1) RCR (Civil) 124”** to the same effect. Then there is **Civil Appeal bearing No. CA-11866-2018** arising out of SLP bearing No. **SLP-17521-2017** titled as **M/s.Simplex Infrastructure Limited Vs. Union of India** decided on 5.12.2018 where the Supreme Court has further emphasized the expression 'but not thereafter' used in the proviso under Section 34 (3) of the Act and has reiterated the law on the subject. This Court is bound by these decisions. Consequently, the appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

7.12.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No